

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DIANA KATHLEEN LELAND,)	
)	No. CV-11-153-JPH
Plaintiff,)	
)	ORDER GRANTING DEFENDANT'S
v.)	MOTION FOR REMAND
)	
MICHAEL J. ASTRUE,)	(ECF No. 28)
Commissioner of Social)	
Security,)	
)	
Defendant.)	

BEFORE THE COURT is the defendant's motion to remand this case to the Commissioner for further administrative proceedings, **ECF No. 28**. Plaintiff asks the Court to grant benefits or remand for further proceedings (ECF No. 14 at 7). Randy J. Fair represents plaintiff. Special Assistant United States Attorney Kathryn A. Miller represents defendant. The parties have consented to proceed before a magistrate judge (ECF No. 7).

After considering the parties' motions, **IT IS ORDERED** that the defendant's **motion for remand, ECF No. 28, is GRANTED. The case is REVERSED and REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings. The ALJ will:

ORDER GRANTING MOTION
FOR ORDER OF REMAND - 1

- 1 1. conduct a new administrative hearing;
- 2 2. reevaluate the medical evidence;
- 3 3. reevaluate plaintiff's residual functional capacity,
- 4 clarifying any inconsistencies between the RFC assessment and the
- 5 March 2007 opinion of therapist Randy Bruce, and the March 2009
- 6 declaration of Dr. Bunch and Mr. Betz, P.A.C.;
- 7 4. further develop the record regarding treatment from Dr.
- 8 Pallet, as well as medical records regarding Plaintiff's January
- 9 2009 back surgery; and
- 10 5. if warranted, obtain supplemental vocational expert
- 11 testimony to address plaintiff's ability to perform past relevant
- 12 work or other work existing in significant numbers in the national
- 13 economy.

14 Because this remand is pursuant to sentence four with a
15 remand to the Commissioner for further proceedings (*see Melkonyan*
16 *v. Sullivan*, 501 U.S. 89 (1991)), plaintiff is entitled to
17 reasonable attorney's fees and costs pursuant to 28 U.S.C. § 2412
18 (a), (d), upon proper request to this Court.

19 IT IS FURTHER ORDERED:

20 1. Because there are unresolved issues, the Court **grants** the
21 defendant's motion for an order of remand pursuant to sentence
22 four (**ECF No. 28**).

23 2. Judgment shall be entered for **PLAINTIFF**.

24 3. An application for attorney fees and costs may be filed by
25 separate motion.

26 4. The District Court Executive is directed to enter this
27 Order, enter judgment, forward copies to counsel, and **CLOSE** the

1 file.

2 **IT IS SO ORDERED.**

3 **DATED** this 26th day of March, 2012.

4 s/James P. Hutton
5 JAMES P. HUTTON
6 UNITED STATES MAGISTRATE JUDGE
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